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Attorneys for Plaintiffs and the Proposed Class

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

LIDIA RIOTT, on behalf of herself, all
others similarly situated and the general
public,

Plaintiff,

v.

Worldwide Commerce Associates, LLC
a Nevada Corporation,

Defendant.

Case No.: '13CV0147 AJB KSC

CLASS ACTION

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF
PURSUANT TO THE TELEPHONE
CONSUMER PROTECTION ACT,
47 U.S.C. §§ 227 *et seq.***

DEMAND FOR JURY TRIAL

INTRODUCTION

1
2 1. Lidia Riott (“Plaintiff”) brings this Class Action Complaint for
3 damages, injunctive relief, and any other available legal or equitable remedies,
4 resulting from the illegal actions of Worldwide Commerce Associates, LLC
5 (“Defendant” or “WCA”), in negligently, and /or willfully contacting Plaintiff
6 through telephone calls on Plaintiff’s cellular telephone, in violation of the
7 Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq., (“TCPA”), thereby
8 invading Plaintiff’s privacy. Plaintiff alleges as follows upon personal knowledge
9 as to her own acts and experiences, and, as to all other matters, upon information
10 and belief, including investigation conducted by her attorneys.

JURISDICTION AND VENUE

11
12 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff
13 seeks up to \$1,500 in damages for each call in violation of the TCPA, which, when
14 aggregated among a proposed class number in the tens of thousands, exceeds the
15 \$5,000,000 threshold for federal court jurisdiction. Further, Plaintiff alleges a
16 national class, which will result in at least one class member belonging to a
17 different state than that of Defendant, providing jurisdiction under 28 U.S.C.
18 Section 1332(d)(2)(A). Therefore, both elements of diversity jurisdiction under the
19 Class Action Fairness Act of 2005 (“CAFA”) are present, and this Court has
20 jurisdiction.

21 3. Venue is proper in the United States District Court for the Southern
22 District of California pursuant to 18 U.S.C. § 1391(b) and 1441(a) because
23 Defendant, a Nevada corporation, is, and at all times herein mentioned, was doing
24 business in the County of San Diego, State of California.

25 ///

26 ///

27 ///

PARTIES

4. Plaintiff Lidia Riott is, and at all times mentioned herein was, a citizen and resident of the State of California. She is, and at all times mentioned herein was a “person” as defined by 47 U.S.C. § 153 (32).

5. Plaintiff is informed and believes, and thereon alleges, that Defendant is, and at all times mentioned herein was, a Nevada corporation, and a “person,” as defined by 47 U.S.C. § 153 (32).

6. On information and belief, Defendant, a Nevada corporation which does business in California, markets consumer goods, services and promotional offers, and has its principal place of business is 3651 Lindell Road, Suite D, Las Vegas, NV 89103.

7. Plaintiff alleges that at all times relevant herein Defendant conducted business in the state of California and in the County of San Diego, and within this judicial district.

FACTUAL ALLEGATIONS

8. Commencing approximately January of 2012, through the present, Plaintiff Lidia Riott received a number of unsolicited phone calls to her wireless phone, for which Plaintiff provided no consent to call, requesting Plaintiff Lidia Riott to purchase various vacation packages.

9. Plaintiff Lidia Riott has attempted to unsubscribe to Defendant’s network, however continues to receive a number of unsolicited phone calls.

10. These unsolicited phone calls placed to Plaintiff’s wireless telephone was placed via an “automatic telephone dialing system,” (“ATDS”) or an artificial or pre-recorded voice system, as defined by 47 U.S.C. § 227 (a)(1) as prohibited by 47 U.S.C. § 227 (b)(1)(A) which had the capacity to produce or store and dial numbers randomly or sequentially, to place telephone calls and / or SMS or text messages to Plaintiff’s cellular telephone.

1 11. The telephone number that the Defendant, or its agents, called was
2 assigned to a cellular telephone service for which Plaintiffs incurred a charge for
3 incoming calls pursuant to 47 U.S.C. § 227 (b)(1).

4 12. Plaintiff did not provide Defendant or its agents prior express consent
5 to receive unsolicited phone calls pursuant to 47 U.S.C. § 227 (b)(1)(A).

6 13. These phone calls by Defendant or its agents violated 47 U.S.C. §
7 227(b)(1).

8 **CLASS ACTION ALLEGATIONS**

9 14. Plaintiff brings this action on behalf of herself and on behalf of and all
10 others similarly situated (“the Class”).

11 15. Plaintiff represents, and is a member of the Class, consisting of all
12 persons within the United States who receive any unsolicited telephone calls from
13 Defendant or its agents on their paging service, cellular phone service, mobile
14 radio service, radio common carrier service, or other service for which they were
15 charged for the call, through the use of any automatic telephone dialing system or
16 artificial or pre-recorded voice system as set forth in 47 U.S.C. Section
17 227(B)(1)(A)(3) or artificial or prerecorded voice, which telephone call by
18 Defendant or its agents was not made for emergency purposes or with the
19 recipients’ prior express consent, within the four years prior to the filing of this
20 Complaint.

21 16. Defendant and its employees or agents are excluded from the Class.
22 Plaintiff does not know the number of members in the Class, but believes the Class
23 members number in the hundreds of thousands, if not more. Thus, this matter
24 should be certified as a Class action to assist in the expeditious litigation of this
25 matter.

26 17. Plaintiff and members of the Class were harmed by the acts of
27 Defendant in at least the following ways: Defendant, either directly or through its
28

agents, illegally contacted Plaintiff and the Class members via their cellular telephones by using unsolicited telephone calls, thereby causing Plaintiff and the Class members to incur certain cellular telephone charges or reduce cellular telephone time for which Plaintiff and the Class members previously paid, and invading the privacy of said Plaintiff and the Class members. Plaintiff and the Class members were damaged thereby.

18. This suit seeks only damages and injunctive relief for recovery of economic injury on behalf of the Class and it expressly is not intended to request any recovery for personal injury and claims related thereto. Plaintiff reserves the right to expand the Class definition to seek recovery on behalf of additional persons as warranted as facts are learned in further investigation and discovery.

19. The joinder of the Class members is impractical and the disposition of their claims in the Class action will provide substantial benefits both to the parties and to the court. The Class can be identified through Defendant's records or Defendant's agents' records.

20. There is a well-defined community of interest in the questions of law and fact involved affecting the parties to be represented. The questions of law and fact to the Class predominate over questions which may affect individual Class members, including the following:

- a. Whether, within the four years prior to the filing of this Complaint, Defendant or its agents placed telephone calls without the recipients' prior express consent (other than a telephone call made for emergency purposes or made with the prior express consent of the called party) to a Class member using any automatic telephone dialing system or an artificial or pre-recorded voice system, to any telephone number assigned to a cellular telephone service;

- 1 b. Whether Plaintiff and the Class members were damaged thereby,
2 and the extent of damages for such violation; and
3 c. Whether Defendant and its agents should be enjoined from engaging
4 in such conduct in the future.

5 21. As a person that received at least one unsolicited telephone call to her
6 cell phone without Plaintiff's prior express contest, Plaintiff is asserting claims that
7 are typical of the Class. Plaintiff will fairly and adequately represent and protect
8 the interests of the Class in that Plaintiff has no interest antagonistic to any
9 member of the Class.

10 22. Plaintiff and the members of the Class have all suffered irreparable
11 harm as a result of the Defendant's unlawful and wrongful conduct. Absent a class
12 action, the Class will continue to face the potential for irreparable harm. In
13 addition, these violations of law will be allowed to proceed without remedy and
14 Defendant will likely continue such illegal conduct. Because of the size of the
15 individual Class member's claims, few, if any, Class members could afford to
16 individually seek legal redress for the wrongs complained of herein.

17 23. Plaintiff has retained counsel experienced in handling class action
18 claims and claims involving violations of the Telephone Consumer Protection Act.

19 24. A class action is a superior method for the fair and efficient
20 adjudication of this controversy. Class-wide damages are essential to induce
21 Defendant to comply with federal law. The interest of Class members in
22 individually controlling the prosecution of separate claims against Defendant is
23 small because the maximum statutory damages in an individual action for violation
24 of privacy are minimal. Management of these claims is likely to present
25 significantly fewer difficulties than those presented in many class claims.
26
27
28

25. Defendant has acted on grounds generally applicable to the Class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the Class as a whole.

FIRST CAUSE OF ACTION

**NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. § 227 ET SEQ.**

26. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

27. The foregoing acts and omissions of Defendant and its agents constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

28. As a result of Defendant's, and Defendant's agents', negligent violations of 47 U.S.C. § 227 et seq, Plaintiff and the Class are entitled to an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

29. Plaintiff and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

**KNOWING AND/OR WILLFUL VIOLATIONS OF THE
TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. § 227 ET SEQ.**

30. Plaintiff incorporates by reference the above paragraphs 1 through 25 inclusive, of this Complaint as though fully stated herein.

31. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and / or willful violations of the TCPA, including but not

1 limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et
2 seq.

3 32. As a result of Defendant's knowing and /or willful violations of 47
4 U.S.C. § 227 et seq., Plaintiff and the Class are entitled to treble damages, as
5 provided by statute, up to \$1,500.00, for each and every violation, pursuant to 47
6 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

7 33. Plaintiff and the Class are also entitled to and seek injunctive relief
8 prohibiting such conduct in the future.

9 **PRAYER FOR RELIEF**

10 **Wherefore**, Plaintiff respectfully requests the Court grant Plaintiff and the Class
11 members the following relief against Defendant:

12 **FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF**
13 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**

14 34. As a result of Defendant's, and Defendant's agents', negligent
15 violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for herself and each Class
16 member \$500.00 in statutory damages, for each and every violation, pursuant to 47
17 U.S.C. § 227(b)(3)(B).

18 35. Pursuant to 47 U.S.C. § 227(b)(3)(A), Plaintiff seeks injunctive relief
19 prohibiting such conduct in the future.

20 36. Any other relief the Court may deem just and proper.

21 **SECOND CAUSE OF ACTION FOR KNOWING AND/OR WILLFUL**
22 **VIOLATION OF THE TCPA, 47 U.S.C. § 227 ET SEQ.**

23 37. As a result of Defendant's, and Defendant's agents', willful and /or
24 knowing violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for herself and each
25 Class member treble damages, as provided by statute, up to \$1,500.00 for each and
26 every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. §
27 227(b)(3)(C).

38. Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.

39. Any other relief the Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: January 17, 2013

/s/ Ronald A. Marron

By: Ronald A. Marron

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Attorneys for Plaintiffs and the Proposed Class

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

LIDIA RIOTT, on behalf of herself and all others similarly situated

(b) County of Residence of First Listed Plaintiff ALAMEDA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Law Offices of Ronald A. Marron, APLC
3636 Fourth Ave., Suite 202, San Diego, CA 92103
(619) 696-9006

DEFENDANTS

WORLDWIDE COMMERCE ASSOCIATES, LLC, a Nevada Corporation

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

'13CV0147 AJB KSC**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret Inc Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U S Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
47 U.S.C. Section 227 - Telephone Consumer Protection Act § 5:552

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

01/17/2013

/s/Ronald A. Marron

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG JUDGE _____